

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA

v.

ANTHONY DINGLE-JONES,

DEFENDANT

)
)
)
)
)
)
)
)
)
)

No. 2:08-CR-202-DBH

ORDER ON MOTION TO REDUCE SENTENCE

The defendant Anthony Dingle-Jones has filed a pro se motion to reduce sentence under the new more lenient and retroactive crack cocaine Guideline calculations. Def. Mot. for Sentence Reduction (Docket Item 55). At his original sentencing, he was held responsible for 45.35 grams of crack cocaine, which produced a Base Offense Level of 28. He then received a 3-level reduction for acceptance of responsibility, yielding a Total Offense Level of 25. In combination with his Criminal History Category of IV, his Guideline range was 84-105 months. I imposed a variant sentence of 70 months, following United States v. Booker, 543 U.S. 220 (2005), and 18 U.S.C. § 3553(a).

Under the new Drug Table, the revised Base Offense Level for that quantity of crack cocaine is 26 (28 to 112 grams of crack cocaine). After the 3-level reduction for acceptance, the revised Total Offense Level is 23. In combination with the Criminal History Category of IV, the revised Guideline range is 70-87 months.

But Guideline § 1B1.10 has also been revised. Now it prohibits any sentence below the new Guideline range, except pursuant to a government motion to depart downward for substantial assistance, not applicable here. § 1B1.10(b)(2)(B). Since my original variant sentence was 70 months and since the bottom of the new Guideline range is 70 months, Dingle-Jones can get no further reduction. If there were any ambiguity in the text (and there is none), the Comments are pellucid. See U.S. Sentencing Guidelines Manual § 1B1.10 cmt. n.3 (2011). See also U.S. Sentencing Guidelines Manual § 1B1.10 cmt. background (2011) (“proceedings under section 3582(c)(2) are not governed by United States v. Booker, 543 U.S. 220 (2005), and this policy statement remains binding on courts in such proceedings”); U.S. Sentencing Guidelines Manual § 1B1.10 Appendix C (Vol. III) Amendment 759-Reason for Amendment.

The motion is **DENIED**.

SO ORDERED.

DATED THIS 9TH DAY OF NOVEMBER, 2011

/s/D. Brock Hornby
D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE